

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>8/23/2021</u>

-----	X	
UNITED STATES OF AMERICA,	:	
	:	
-against-	:	19-CR-289 (VEC)
	:	
MARCOS GONZALEZ,	:	<u>ORDER</u>
	:	
Defendant.	:	
-----	X	

VALERIE CAPRONI, United States District Judge:

WHEREAS on June 14, 2021, Mr. Gonzalez moved for compassionate release pursuant to 18 U.S.C. § 3582(c) (Dkt. 33);

WHEREAS on July 16, 2021, the Government filed an opposition, acknowledging that Mr. Gonzalez had exhausted his administrative remedies, but opposing Mr. Gonzalez's motion on the merits (Dkt. 35);

WHEREAS on July 30, 2021, Mr. Gonzalez filed a reply (Dkt. 36);

WHEREAS, a court may, according to the plain language of the statute, reduce Mr. Gonzalez's sentence under the rubric of compassionate release if, "after considering the factors set forth in § 3553(a)," it finds that "extraordinary and compelling reasons warrant such a reduction," 18 U.S.C. § 3582(c)(1)(A)(i);

IT IS HEREBY ORDERED THAT: Mr. Gonzalez's motion for compassionate release is DENIED. Mr. Gonzalez has failed to demonstrate "extraordinary and compelling reasons" warranting a sentence reduction. Although Mr. Gonzalez has developed high blood pressure and high cholesterol while in BOP custody, he is taking prescription medication to address both

conditions. Gov. Opp., Dkt. 35 at 5. Moreover, Mr. Gonzalez has been fully vaccinated against COVID-19¹, and is an otherwise healthy 41-year-old man. *Id.*; Def. Reply, Dkt. 36 at 1.

The Court is certainly sympathetic to Mr. Gonzalez's desire to help his partner care for their seven-year-old daughter, who suffers from Type I diabetes, and acknowledges the challenges of caring for a young child with a serious medical condition. *See* Def. Motion, Dkt. 33 at 11-15. Nevertheless, Mr. Gonzalez's daughter's condition does not constitute extraordinary or compelling reasons for his own release; Mr. Gonzalez has a partner as well as family members and friends who can care for his daughter while he is incarcerated.

Even assuming Mr. Gonzalez had demonstrated "extraordinary and compelling reasons" warranting a sentence reduction, his release at this point, after serving only two of the ten year sentence imposed by this Court, would be an inadequate punishment for his crime, considering the applicable factors set forth in 18 U.S.C. § 3553(a). As the Court noted at sentencing, Mr. Gonzalez committed a serious offense. Mr. Gonzalez trafficked in significant quantities of heroin, cocaine, methamphetamine, and marijuana, and did so from his very own apartment, where his young children lived. Gov. Opp., Dkt. 35 at 2. Moreover, Mr. Gonzalez committed the instant offense despite having two prior drug convictions, one of which included a three-year prison sentence. *Id.*

That being said, the Court commends Mr. Gonzalez on his decision to pursue his GED and congratulates him on passing his social studies exam. The Court encourages Mr. Gonzalez to continue enrolling in First Step Act classes and to take advantage of any other programming available at FCI Danbury. Finally, the Court is pleased to see that Mr. Gonzalez has completed the NRDAP program and that he has not sustained any disciplinary infractions since his arrival at


¹ Mr. Gonzalez contracted COVID-19 in December 2020. Def. Motion, Dkt. 33 at 16.

Danbury. In short, although Mr. Gonzalez does not qualify for compassionate release at this time, the Court is hopeful that Mr. Gonzalez is on a path to become a productive and law-abiding member of society upon his release.

The Clerk of Court is directed to close the open motion at docket entry 33.

SO ORDERED.

Date: August 23, 2021
New York, NY



VALERIE CAPRONI
United States District Judge